

***TONGUE RIVER WATER USERS' ASSOCIATION
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December 3, 2012

Ken Blodgett
Surface Transportation Board
395 E. Street S.W.
Washington, D.C. 20423- 0001
Attention: Environmental filing, Docket No. FD 30186.
<http://www.stb.dot.gov>

VIA REGULAR MAIL AND ELECTRONIC FILING

Re: Docket No. FD 30186, Tongue River Railroad EIS Scoping Comments.

Dear Mr. Blodgett:

Thank you for this opportunity to submit written comments on the scope of the study for the environmental impact statement (EIS) for the proposed Tongue River Railroad (TRR). I previously commented at the scoping meeting in Ashland, Montana on November 14, 2012 on behalf of the Tongue River Water Users' Association. The Tongue River Water Users' Association (TRWUA) is pleased, and concurs, with the Board's October 31, 2012 decision requiring preparation of a completely new, rather than a supplemental, EIS for the proposed TRR I route given, among other things, the length of time that has passed, and that no construction on the railroad has ever commenced since the original EIS was prepared.

The information used to prepare the 1982 draft EIS and the 1985 Final EIS for the proposed TRR I, II, and III was primarily gathered in the 1960s and 1970s. Much has changed since that time, making it essential to start the environmental analysis process anew. Additionally, TRWUA is pleased, and concurs, with the Board's October 31, 2012 decision that the transportation merits of the proposed TRR must be considered. Presently, there are no permitted coal mines for the proposed TRR to serve, and there never have been since the inception of the idea for the proposed railroad. The demand for coal is soft, and it is TRWUA's understanding that the intended market for the Otter Creek coal is Asia. According to the U.S. Energy Information Administration (EIA), "[t]he Chinese government has made the expansion of natural gas-fired and renewable power plants . . . a

priority.” See U.S. EIA website: <http://www.eia.gov/countries/country-data.cfm?fips=CH&trk=wn> (last visited Dec. 1, 2012). Additionally, according to the U.S. EIA, the economy in China continues to slow. See <http://www.eia.gov/countries/cab.cfm?fips=CH> (last visited Dec. 1, 2012.) Based on this information, TRWUA believes a thorough analysis of the transportation merits of the proposed TRR is essential.

BACKGROUND

I have been a rancher in the Tongue River Valley in Montana my entire life. My family settled here in 1884, and I have run the family cattle ranching and farming operation since 1984. Currently, I serve as president of TRWUA, a position I have held since 1991. TRWUA is an organization of ranchers and farmers who irrigate with the waters of the Tongue River. We have approximately 75 members who hold water rights to the waters of the Tongue River and who purchase water from the state of Montana that is stored in the Tongue River Reservoir for our members’ farming and ranching operations. Without ample supplies of the high quality waters of the Tongue River, agricultural life in the Tongue River Valley would wither. High quality surface waters are essential to produce crops and protect our soils. Ground water is also essential for our health, safety, and welfare, as it is the source of running water for households, and water for livestock. Both ground and surface water are also essential for wildlife. TRWUA has worked diligently since its formation in 1937 to protect the quality of the water for agriculture in the Tongue River Valley from the Montana-Wyoming state line to the Tongue River’s confluence with the Yellowstone at Miles City.

The proposed TRR idea has been tossed around since about 1982, approximately thirty years now. Over those thirty years, no coal mine has ever materialized for the railroad to serve. Despite that there has never been a coal mine for the proposed TRR to serve, a Draft Environmental Impact Statement (EIS) was prepared and released in 1983, and a Final EIS was released in 1985. To the best of TRWUA’s knowledge and belief, most, if not all, analyses in the original environmental analysis documents were tiered off other environmental analyses performed in the 1960s and 1970s. Moreover, significant portions of the proposed railroad route have *never* been studied. The 1982 Draft EIS states:

[a]lthough numerous studies have been conducted in the region, some areas potentially affected by the railroad have not been inventoried. The most notable example is the area along the east side of the Tongue [River] from approximately the mouth of Beaver Creek to the

mouth of Pumpkin Creek, and bordered on the east by Pumpkin Creek. No wildlife inventory has been conducted in this area.

See 1983 Draft EIS, proposed Tongue River Railroad, p. 2-6. The foregoing information bolsters the need to start the environmental analysis for the proposed TRR anew. Changes in agricultural practices and types of crops grown have occurred, and there is much irrigated agricultural land than was the case thirty years ago. Changes in wildlife populations and migration routes have also occurred. There are also industrial sources of pollution and aquifer dewatering in the Tongue River Valley that did not exist when the old EIS was prepared, most notably coal bed methane wells and the Decker East and West coal mines. There are other proposed industrial sources of pollution, including the proposed Young's Creek coal mine in Wyoming that would discharge to the Tongue River and its tributaries.

ENVIRONMENTAL IMPACTS THAT MUST BE CONSIDERED

The EIS must analyze all environmental impacts along the 83-mile proposed TRR I route from Otter Creek to Miles City, Montana. The new EIS must consider the impacts on Montana communities, and impacts throughout the Pacific Northwest, where coal that would initially be shipped via the TRR would be transported via rail. The proposed TRR would ostensibly transport coal from the unpermitted Otter Creek coal tracts to Miles City, Montana. The coal would then be shipped via rail west across the length of Montana, through Idaho, and to Washington or Oregon for export to Asian markets. The impacts on the immediate environment where the TRR would be located, as well as on all communities and the environment that would ultimately be impacted must be analyzed. These impacts include, but are not limited to: whether there is even a market for Montana's high sodium coal that would be transported by the proposed TRR and the transportation merits of the proposed TRR; water-quality and hydrology impacts; impacts to land and landowners, including loss of agricultural productivity due to condemnation for rights-of-way, issues arising from bisecting prime agricultural lands, loss of grazing lands, economic loss, and attendant safety issues (fires, livestock loss, RR crossing dangers, etc.); air-quality impacts; noise and vibration impacts; social and economic impacts; impacts on fisheries; impacts on wildlife habitat and migration corridors; impacts on historical sites; impacts on existing infrastructure, and the costs and burdens of building new infrastructure, including who will bear the initial expense, and who will bear the burden when the coal and the coal trains are gone. Any of the proposed routes/alternatives are dubious propositions at best, given that not one permitted mine exists for the railroad to serve, and given that the coal market is waning.

The EIS must further analyze *all* cumulative impacts on the Tongue River and its tributaries, including impacts on water quality, water quantity, fisheries and aquatic life, impacts on water rights from current and proposed coal mines and other industrial development in both Montana and Wyoming, cumulative impacts on air-quality, wildlife, recreation, cultural and historic resources, and social and economic impacts.

Below is a more comprehensive list of environmental impacts TRWUA believes must be considered.

❖ **Water Quality Soils and Crops in the Tongue River Valley.**

The Tongue River Valley is prime agricultural land. The livelihoods of most of its residents are agriculture-based, and the economy is primarily driven by agriculture. Direct effects on water resources from the proposed Tongue River Railroad would include, among other things, sediment, erosion, and coal dust, all of which would adversely affect the quality of the Tongue River and its tributaries. Additionally, impacts from the proposed Otter Creek coal mine must be considered, because the proposed Tongue River Railroad would exclusively serve the as-yet unpermitted and undeveloped Otter Creek coal mine. To the best of TRWUA's knowledge, there are no other mines, mine leases, or permits that the railroad would or could serve.

Although the map of the proposed/preferred railroad route posted on the Surface Transportation Board (Board) website shows two terminus points, in its October 31, 2012 decision, the Board recognizes that the current proposal, the application for which has not yet been supplemented, does not include two terminus points. The old map was published with the 1983 Draft EIS, and at that time the Montco Mine was proposed. However, the Montco mine is now off the table, has no owners or permits, and no prospect for ever coming to fruition. Therefore, there would only be one terminus point, and that would be at the as-yet-unpermitted Otter Creek coal mine. In sum, there are no permitted mines that the proposed TRR would serve, and the proposed TRR is merely illusory. Nonetheless, the impacts on water quality from the proposed TRR, the proposed Otter Creek coal mine, and other industrial sources of pollution to the Tongue River and its tributaries must be fully analyzed.

Water in the Otter Creek alluvial valley is highly saline and sodic. Mining the Otter Creek coal tracts would require mining through the alluvial aquifer,

and then through a shale/sandstone alluvium before ever reaching the coal. The United States Geologic Survey (USGS) published studies entitled Potential Effect of Surface Coal Mining On The Hydrology of the West Otter Area, Ashland and Birney-Broadus Coal Fields, Southeastern Montana, U.S. Geological Survey Water-Resources Investigations Report 84-4087, 1984, and Effects of Potential Surface Coal Mining On Dissolved Solids in Otter Creek and In The Otter Creek Alluvial Aquifer, Southeastern Montana, U.S. Geological Survey Water-Resources Investigations Report 85-4206, 1985.

Although nearly thirty years old, those reports show that nearly all the coal that would be mined from the Otter Creek coal tracts, and which the proposed TRR would exclusively serve, is under the alluvial valley floor, and that the water quality is very poor. According to the above-referenced USGS reports, water would have to be continuously pumped from the mine, and tens of thousands of gallons of highly toxic saline and sodic water would have to be discharged. Ultimately, the water would discharge to, and degrade, the Tongue River and its tributaries. In turn discharging saline and sodic water to high-quality surface waters that are essential for irrigated agriculture would likely lead to the degradation/destruction of soils, and destruction of crops. All these impacts, including the economic impacts of degrading surface waters and soils, must be thoroughly considered.

There are presently two coal mines, Decker East and Decker West, and numerous coal bed methane (CBM) wells, that are permitted to discharge highly saline and sodic ground water to the Tongue River. There is also the Young's Creek coal mine proposed for Wyoming that would also discharge highly saline and sodic effluent into the Tongue River. Additionally, the Montana Department of Environmental Quality has issued a point source discharge permit (presently unused) to discharge CBM water into Hanging Woman Creek and its tributaries. Hanging Woman Creek is a tributary of the Tongue River. The cumulative effects of all point source discharges to the Tongue River and its tributaries, including the proposed Otter Creek coal mine, the Decker East and West coal mines, coal bed methane discharges, and the proposed Young's Creek coal mine in Wyoming and must be analyzed in the EIS.

❖ **Water Quantity in the Tongue River.**

Building the proposed TRR would likely cause extensive land disturbance. This would in turn intersect ground water aquifers, causing disturbance of

ground water regimes that contribute to the surface flows of the Tongue River and its tributaries, it would interfere with ground water rights, and would adversely affect seeps and springs that are essential for livestock and wildlife water. The proposed TRR would serve the unpermitted Otter Creek coal mine. Because the Otter Creek coal tracts underlie the alluvial valley floor, further massive disruption in ground water regimes would be anticipated, with tremendous amounts of ground water having to be pumped from the mine site. Ground water wells for domestic use, stockwater, and wildlife would undoubtedly be adversely affected by development of the TRR and the proposed mine it would serve. Interference with ground water flows would diminish surface water flows. The Montana Bureau of Mines and Geology has published studies showing that ground water contributes to the flows of the Tongue River and its tributaries. Interrupted ground and surface water flows would adversely impact the TRWUA's members' agricultural operations, the contracts TRWUA has with the state of Montana and its members, and would adversely affect agricultural production, and supplies of ground water for domestic, stock, and wildlife use in the Tongue River Valley in general.

❖ **Impacts to Landowners.**

Landowners in the Tongue River Valley, including the Otter Creek area, are primarily agricultural producers with ranching and farming operations. A railroad running through the Tongue River Valley would bisect many ranches and/or pastures, and would interfere with irrigation operations, would sever livestock from water supplies, would impede movement of livestock, and would result in the loss of livestock. Additionally noise and vibration impacts on residents, residences, livestock, and wildlife must be considered. Further the spread of noxious weeds, which residents and agricultural producers in the Tongue River Valley have worked hard to combat, would likely be exacerbated. Trains barreling through quiet, previously undisturbed areas would likely place undue stress on humans, livestock and wildlife. All these impacts would have adverse economic impacts to agricultural operations and residences, would cause tremendous inconvenience, and would potentially have adverse health impacts. All of the foregoing must be addressed in the EIS.

Train-caused fires would also pose significant safety problems for ranchers and farmers, their employees, and families due to train traffic. The summer of 2012 was marked by massive, devastating wildfires in the vicinity of the proposed railroad route. Many residents were without electricity for up to

eight days, and suffered tremendous loss of livestock, hay fields, homes, and outbuildings. Given the increasingly hot, dry summers, the added threat of fires from the proposed TRR poses significant safety concerns for the landowners and residents of the Tongue River Valley.

The proposed railroad would impede the ability of public safety vehicles to respond to emergencies such as fires, traffic accidents and other emergencies.

Economic, Social, and Cultural Issues.

The residents of the Tongue River Valley are primarily agricultural producers. Many would suffer significant economic harm from forfeiting land for a railroad right-of-way and the resulting loss of irrigated acreage. Since the railroad was first proposed in the early 1980s, many landowners have put additional acres into agricultural production through the use of sprinkler systems. The proposed TRR would impose numerous economic threats to agricultural operations in the Tongue River Valley, all of which must be analyzed.

The residents of the Tongue River Valley can expect decreased quality of life, and increased crime with the influx of workers required to build the proposed TRR and work in the proposed Otter Creek mine. Local residents would have to contend with all the safety, social, and cultural issues that are inherent in a boom-bust economy, including not only crime, but increased road traffic, increased burdens on infrastructure such as housing and schools, medical services, law enforcement, and other necessary infrastructure. Local residents would probably have to bear the cost for additional essential services and infrastructure before any tax revenue would be generated. All social, economic, and cultural impacts, including the overall quality of life of residents of the Tongue River Valley must be analyzed in the EIS.

Fisheries and Wildlife.

Since the 1983 Draft EIS was prepared, fisheries and wildlife in the Tongue River Valley have changed considerably. Fish that did not previously flourish in the Tongue River are now thriving due to the fish by-pass at the T & Y diversion. But those fish and other aquatic life are threatened by discharges of highly saline and sodic water. Studies show that discharges of ground water high in sodium bicarbonate from coal bed methane wells and other industrial dischargers are likely adversely impacting aquatic life,

including young fish. Impacts on fisheries and aquatic life must be fully analyzed in the EIS.

There is an abundance of wildlife that relies on the pristine habitat of the Tongue River Valley. Elk inhabit the valley, as do mule and whitetail deer, antelope, bears, mountain lions, game birds, and other wildlife. It is also a wildlife migration corridor. Wildlife is an important economic resource for many ranchers and the state of Montana, particularly during hunting season. Sage grouse may inhabit the area, and the U.S. Fish and Wildlife Service has deemed that listing sage grouse on the endangered species list is warranted. A thorough inventory of wildlife and all impacts on wildlife must be completely analyzed.

- ❖ **Aesthetic Values and Historic Sites**. The Tongue River Valley is one of the few still-pristine valleys in the United States. The silence and views are highly prized by residents and visitors alike. A railroad running through one of the last best places, where even the sound of automobiles and airplanes is seldom heard, and where the vistas remain mostly unmarred, would fundamentally alter the Tongue River Valley. In addition to aesthetic impacts, the Tongue River Valley contains numerous historic sites of significance that would be disturbed, and possibly destroyed. Aesthetic impacts and impacts to historic sites and must be thoroughly analyzed in the new EIS.

CONCLUSION

On behalf of the Tongue River Water Users' Association, preparation of a new Environmental Impact Statement using newly gathered, complete, and accurate data is greatly appreciated. The new EIS must include all direct and cumulative impacts, including impacts of currently operating and proposed coal mines in Montana and Wyoming, impacts from other industries operating in the Tongue River Valley, the likelihood and economic feasibility of the proposed Otter Creek coal mine, and a searching inquiry into the transportation merits of the proposed TRR.

Sincerely,

/s/ Art Hayes, Jr.
Art Hayes, Jr.

President, Tongue River Water Users' Association

c: Tongue River Water Users' Association Board of Directors